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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
087863-113	05/27/97	GUINEAU	A 1974

TERRY T MOYER
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QM61/0818

EXAMINER
WORRELL JR, L

ART UNIT	PAPER NUMBER
3741	

DATE MAILED: 08/18/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/863,113

Applicant(s)

Goineau et al.

Examiner

Worrell

Group Art Unit

3741



☒ Responsive to communication(s) filed on 7/27/98. (request for CPA and preamendment B)

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle* 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 11-18 is/are pending in the applicat

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 11-18 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 3741

DETAILED ACTION

Continued Prosecution Application

1. The request filed on 7/27/98 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 08/863113 is acceptable and a CPA has been established. An action on the CPA follows.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 11-18 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The added material which is not described in the specification as originally filed is as follows: As recited in new claim 11, "single ply" yarn and "without further processing". Note that the embodiment of figures 1 and 2 shows that after drawing takes place further processing occurs via a dancer roll.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 3741

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 11-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 11, line 3, the recitation "the single ply yarn to a heater" is unclear as to the process step taking place.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goineau(5172459).

Goineau(5172459) teaches the invention as claimed including providing a bobbin of polyester POY multi-filament synthetic yarn(20, 26, 24), supplying said yarn to a heater(32), drawing said yarn in a draw zone with a draw ratio in the range of 1.8-2.3(column 2, lines 24-27) as it passes over the heater to fully orient the yarn and taking up the fully oriented yarn(42). However, Goineau(5172459) teaches a multiply yarn and provides further processing via air texturing instead of a "single ply" and "without further processing". It would have been obvious

Art Unit: 3741

at the time the invention was made to one of ordinary skill in the art to which the invention pertains to provide the process of Goineau(5172459) with a single ply yarn material rather than a multiply yarn material so that a single ply POY can be drawn and fully oriented as shown by Goineau(5172459). Additionally, it would have been obvious at the time the invention was made to one of ordinary skill in the art to provide the oriented yarn directly to a take up roll in order to provide a nontextured fully oriented yarn rather than an air textured yarn. Re claim 5, note the draw relaxing zone between rollers 34 and 41.

8. Claims 12-14 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goineau(5172459) in view of Gorrafa.

As indicated in the rejection to claim 11 above, Goineau(5172459) teaches the invention substantially as claimed including providing a 34 filament, 150 denier POY yarn. However Goineau(5172459) discloses a heater draw temperature of 140°C instead of about 210°C as claimed. Gorrafa teaches a drawing process for polyester yarns in which the temperature is 210°C as shown in Table 1 of Gorrafa. It would have been obvious at the time the invention was made to one of ordinary skill in the art to which the invention pertains to provide the heating of the yarn of Goineau(5172459) to about 210°C in order to bring about the optimal fully drawn yarn characteristics as shown by Gorrafa. Additionally, it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Re claim 12 and the pre-tensioning, note in the draw block of

Art Unit: 3741

Goineau(5172459) the initial drawing provides a pre-tension before the second draw section. See column 2, lines 20-27. Re claim 17 and the yarn size of 255 denier, it would have been obvious at the time the invention was made to one of ordinary skill in the art to which the invention pertains to provide the yarn size as 255 denier since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). Concerning the specific draw ratio of 2.093, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the 1.9 draw ratio of Goineau(5172459) as 2.093, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Clearly draw ratio is a result effective variable as shown by example throughout the disclosure of Gorrafa. Re claim 14 and the specific pretensioning draw ratio of 1.01, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the 1.01 draw ratio in the pretension drawing of Goineau(5172459), since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Conclusion

9. This is a CPA of applicant's earlier Application No. 08/863113. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the

Art Unit: 3741

grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danny Worrell whose telephone number is (703) 308-0889. Messages placed on voice mail will be returned by the end of my next business day.

The fax phone number for this Group is (703) 308-7766.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

LDW
August 13, 1998


Michael A. Neas
Primary Examiner